

ORIGINAL

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20024

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In the Matter of:

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(St. Johnsbury, Vermont)

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MM Docket No. 99-6
RM-9431

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

**COUNTERPROPOSAL TO PROPOSED FM CHANNEL
ALLOTMENT TO ST. JOHNSBURY, VERMONT**

Vermont Broadcast Associates, Inc. ("VBA"), by its attorney and pursuant to the provisions of Section 1.420(d) of the Commission's Rules, submits this counterproposal in response to the Commission's proposal in MM Docket No. 99-6 (RM-9431)^{1/} to amend Section 73.202(b) of its Rules, the FM Table of Allotments, to allot FM Channel 262A to St. Johnsbury, Vermont, as that community's second local commercial FM service. In support whereof, the following is shown.

At the request of Dana Puopolo, the Commission has proposed to allot Channel 262A to St. Johnsbury, Vermont, a community with a 1990 U.S. Census population of 6,424. As the Commission's records reflect, St. Johnsbury is currently the city of license of a full time AM broadcast station operating on 1340 kHz (WSTJ) and a commercial FM station operating on Channel 288A (WKXH). Thus, the allotment of Channel 262A to St. Johnsbury would provide that community with its third local aural broadcast service.

^{1/} See Notice of Proposed Rulemaking, DA 99-202, released January 22, 1999.

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In lieu of Mr. Puopolo's proposal for allotment of a second FM channel and third full-time local service for St. Johnsbury, VBA submits that the Commission should instead allot Channel 262A to the Village of Barton, Orleans County, Vermont, as that community's first local broadcast service. Attached hereto is the Engineering Statement of Cohen, Dippell and Everist, P.C. which shows that Channel 262A can be allotted to Barton in accordance with the Commission's minimum distance separation requirements. Canadian concurrence in the allotment as a specially negotiated short-spaced allotment is required for the reasons stated in the Engineering Statement.

Barton is an incorporated village within the Town of Barton. The Village of Barton had a 1990 U.S. Census population of 908. It has its own elected officials, post office (05822) and public library. There is a commercial district located in the Village that includes business and service establishments, including car dealerships, grocery/convenience stores, etc. There are three churches and two schools located within the Village of Barton, which also supports the immediate area's municipal services (fire department, power, water and waste treatment). In sum, there is no question that the Village of Barton meets the Commission's criteria to be a "community" for allotment purposes.

In comparing conflicting proposals, the Commission's FM channel allotment priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) other public interest matters [Co-equal weight is given to priorities (2) and (3)].^{2/} The comparison of Barton, Vermont to St. Johnsbury, Vermont for the allotment of Channel 262A

^{2/} See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

can easily be resolved on the basis of Priority 3: Channel 262A will provide the first local service for Barton, an independent community with a manifest need for a local FM broadcast station.

In conclusion, VBA requests the Commission to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, as follows:

<u>Community</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Barton, Vermont	--	262A

In the event that Channel 262A is assigned to Barton, Vermont, VBA intends to apply for the channel and, if authorized, VBA will build the new FM station promptly.

Respectfully submitted,

VERMONT BROADCAST ASSOCIATES, INC.

By: John R. Wilner

John R. Wilner
Its Attorney

Bryan Cave LLP
700 Thirteenth Street, N.W.
Suite 700
Washington, DC 20005
(202) 508-6000

Date: March 15, 1999

ENGINEERING STATEMENT RE
COUNTER PROPOSAL IN MM DOCKET NO. 99-6
PETITION FOR NEW FM ALLOTMENT
FOR FM STATION AT
BARTON, VERMONT
CH. 262A 6 KW (H&V) 100 METERS

MARCH 1999

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

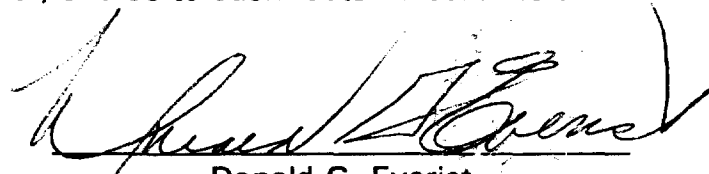
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

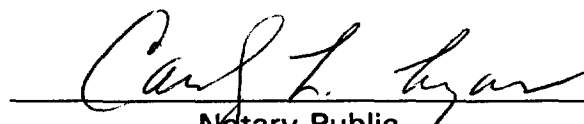
That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.


Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 11th day of March, 1999.


Notary Public

My Commission Expires: 2/28/2003

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

Brian F. Marengo being duly sworn upon his oath, deposes and states:

He is a graduate electrical engineer of the University of Delaware, an engineer with the firm of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio-Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; and previously employed for nine years in various capacities with the Federal Communications Commission.

That his qualifications are a matter of record in the Federal Communications Commission;

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to facts, he believes them to be true.

Brian F. Marengo
Brian F. Marengo

Subscribed and sworn to before me this 11th day of March, 1999.

Carl L. Lyons
Notary Public

My Commission Expires: 2/28/2003

This engineering statement is prepared on behalf of Vermont Broadcast Associates, Inc. ("VBA"). VBA would like to make a counter proposal in MM Docket No. 99-6 to amend the Table of Allotments, Section 73.202 of the FCC Rules as follows.

Barton, Vermont

ADD 262A (100.3 MHz)

This proposal is being made in lieu of amending the Table of Allotments to add Channel 262A for St Johnsbury, Vermont.

The reference coordinates (NAD-27), for the proposed new allotment, are:

North Latitude: 44° 44' 58"

West Longitude: 72° 10' 38"

This proposed allotment would be the first primary service to Barton, Vermont. The allotment coordinates are for the Post Office located near the center of Barton, Vermont. Therefore, 70 dBu coverage of Barton, Vermont, will be achieved from this site.

Allocation Situation

The attached Table 1 shows the allocation situation for the proposed 262A allotment.

The proposed allotment meets the distance separation to all pending and licensed operations and allotments in the United States per Section 73.207 of the Commission's Rules.

There are two short-spacings to Canadian allotments. These short spacings are to co-channel Vacant Allotment 262A in Magog, Quebec, and co-channel Allotment 262A in Sherbrooke, Quebec. VBA requests that the Commission negotiate acceptance of this allotment with the Canadian government.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE 1

PRELIMINARY
ALLOCATION SITUATION
FOR CHANNEL 262A, BARTON, VERMONT
MARCH 1999

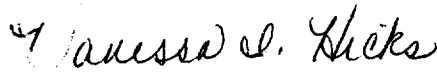
<u>Call</u>	<u>Channel</u>	<u>City/State</u>	<u>ERP</u> kW	<u>HAAT</u> meters	<u>Geographic</u> <u>Coordinates</u>	<u>Distance</u>	
						<u>Actual</u> km	<u>Required</u> km
NEW	262	Barton, VT	6	100	44°44'58" 72°10'38"	—	—
Vacant	261C1	Trois-Rivieres, QU			46°21'00" 72°33'00"	180.3	181
ADD	262A	St. Johnsbury, VT			44°25'50" 71°57'22"	39.5	115
Vacant	262A	Magog, QU			45°16'00" 72°09'00"	57.5	180
ADD	262A	Sherbrooke, QU			45°22'50" 71°54'51"	73.1	180
NEW	263C1	St. George- Beauce, QU ¹	47	212	46°18'37" 71°01'03"	195.7	181
ADD	264A	Hardwick, VT			44°30'18" 72°22'24"	31.3	31
WGTK	265C2	Berlin, VT			44°18'15" 72°37'24"	60.9	55

¹SPECIAL NOTE PROP.N.

CERTIFICATE OF SERVICE

I, Vanessa I. Hicks, a secretary in the law firm of Bryan Cave LLP, hereby certify that a copy of the foregoing "Counterproposal to Proposed FM Channel Allotment to St. Johnsbury, Vermont" was mailed, postage prepaid, this 15th day of March 1999 to:

Dana Puopolo
37 Martin Street
Rehoboth, MA 02769-2103

A handwritten signature in cursive script, reading "Vanessa I. Hicks", is written over a horizontal line.

Vanessa I. Hicks